

**ARTICLE 2****DEFINITIONS****§ 2.01. APPLICABILITY.**

- A. For purposes of this ordinance, the terms in this article shall have the meaning attributed to them in this article, except as may be specifically provided otherwise in this ordinance, or unless the context clearly indicates a different meaning.
- B. In applying the New Jersey Residential Site Improvement Standards, the terms used herein shall have the meaning attributed to them in said standards, in case of conflict.
- C. When a term is not defined herein, then the meaning shall be as defined by applicable statute. If a term is not defined herein or by applicable statute, then the meaning attributed by the Zoning Officer shall be binding unless reversed on appeal to the Board of Adjustment pursuant to § 7.02B.

**§ 2.02. WORD USAGE.**

In the construction of this ordinance, the usage of words shall be as follows, unless the context, other provisions of this chapter, the application of law, or plain sense indicate otherwise:

- A. The present tense shall include the future tense;
- B. The singular number or word shall include the plural, and the plural, the singular;
- C. The word "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action; and
- D. The word "used" includes the words "arranged, designed or intended to be used".

**§ 2.03. STATUTE CITATIONS.**

The following statutes, with their citations, are referenced in this ordinance:

- A. **Child Care Center Licensing Act.** P.L. 1983, c. 492 (C. 30:5B-1 et seq.).
- B. **County and Municipal Investigations Law.** P.L. 1953, c. 38 (C. 2A:67A-1 et. seq.).

- C. **County Planning Act.** P.L. 1968, c. 285 (N.J.S. 40:27-1 et seq.).
- D. **Family Day Care Provider Registration Act.** P.L. 1987, c.27 (C.30:5B-16 et seq.).
- E. **Freshwater Wetlands Protection Act.** P.L. 1987, c. 156 (N.J.S. 13:9B-1 et seq.).
- F. **Local Public Contracts Law.** P.L. 1971, c. 198 (N.J.S. 40A:11-1 et seq.).
- G. **Map Filing Law.** P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.).
- H. **Municipal Land Use Law.** P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.).
- I. **New Jersey Residential Site Improvement Standards.** (N.J.A.C. 5:21).
- J. **Open Public Meetings Law.** P.L. 1975, c. 231 (N.J.S. 10:4-6 et seq.).
- K. **Penalty Enforcement Law.** P.L. 1948, c. 253 (N.J.S. 2A:58-1 et seq.).
- L. **Soil Erosion and Sediment Control Act.** P.L. 1975, c. 251 (N.J.S. 4:24-39 et seq.).
- M. **State Uniform Construction Code.** (N.J.A.C. 5:23 et seq.).
- N. **State Uniform Construction Code Act.** P.L. 1975, c. 217 (N.J.S. 52:27D-119 et seq.).

**§ 2.04. DEFINITIONS; A.**

- A. **Above grade structure.** Any building, roofed structure or other structure which has a height above the ground of at least one (1) foot. If only part of said structure is one (1) foot or higher above the ground, then only that part shall be considered an "above grade structure". This definition shall include, but is not necessarily limited to, swimming pools, hot tubs, ornamental pools, porches, decks, balconies, tanks, fireplaces and barbecue pits, roofed arbors and trellises, any or all of which are located above grade as defined herein. Notwithstanding the above, the following shall not be construed to be above grade structures for the purposes of this chapter: fences, walls, flagpoles, mailboxes, signs, and lawn ornaments.

- B. **Abutting.** Touching or joining at the edge or border, adjacent, contiguous.
- C. **Access drive or aisle.** That portion of a parking area or facility not devoted to parking spaces which permits vehicles to move from the roadway to the parking stall and includes both the portion leading to the parking spaces from the street as well as the aisle or space between parking stalls which permits automobile maneuvering for the purpose of parking.
- D. **Accessory building or structure.** A building or structure occupied or devoted exclusively to an accessory use on the same lot with and subordinate to a principal building or structure. More particularly, but not by way of limitation, an accessory building or structure in a residential zone shall be construed to include a deck, detached private garage; private greenhouses; private summer houses; private sheds; gazebos; other private roofed structures; private swimming pool; private tennis court; private racquet ball, private platform tennis, private paddle ball, or private handball court.
- E. **Accessory use.** A use naturally and normally incident and subordinate to the principal and primary use upon any premises. More particularly, but not by way of limitation, a residential accessory use shall be construed to include such uses as a private swimming pool, private tennis court, private racquet ball, platform tennis, paddle ball or handball court.
- F. **Acre.** A unit of land surface area measure consisting of forty-three thousand five hundred sixty (43,560) square feet.
- G. **Administrative office.** An office where the primary function is dealing with other branches or divisions of the same enterprise, and where there is only minimum contact with the general public due to such primary function.
- H. **Administrative officer.** The Secretary of the Board in the case of action required by the Board, and the Zoning Officer, Municipal Clerk or Construction Official in the case of action required by them.
- I. **Affordable housing.** Housing which is affordable by persons of low or moderate income based upon standards of income and affordability established by the regulations of the New Jersey State Council on Affordable Housing as amended from time to time.

- J. **Alteration.** Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.
- K. **Ancillary.** Accessory or auxiliary.
- L. **Antenna.** A device used to transmit and/or receive radio or electromagnetic waves between earth- and/or outer space-based structures.
- M. **Antenna, exempt.** An antenna of any of the following types:
1. an antenna that is designed to receive direct broadcast satellite service (DBS), including direct-to-home satellite service, and is one (1) meter (39.37 inches) or less in diameter;
  2. an antenna that is designed to receive video programming services via multipoint distribution services, including multi-channel, multipoint distribution services (MMDS), instructional television services, and local multipoint distribution services, and is one (1) meter (39.37 inches) or less in diameter or diagonal measurement, provided that if such antenna is located on a mast, the mast is twelve (12) feet or less in height;
  3. an antenna that is designed to receive television broadcast signals (TVBS) provided that if it is located on a mast, the mast is twelve (12) feet or less in height;
  4. a transmission satellite dish no greater than one (1) meter (39.37 inches) in diameter;
  5. a receive-only satellite dish greater than one (1) meter (39.37 inches) and less than or equal to two (2) meters (78.74 inches) in diameter and located in a non-residential zone district; and
  6. a transmission satellite dish no greater than two (2) meters (78.74 inches) in diameter and located in a non-residential zone district.

- N. **Apartment unit.** One (1) or more dwelling rooms usually with private bath and kitchen facilities comprising an independent self-contained dwelling unit in a building containing more than one (1) dwelling unit on a single lot.
- O. **Applicant.** A developer or owner submitting an application for development.
- P. **Application for development.** The application form and all accompanying documents required by this ordinance for approval of a subdivision plat or site plan pursuant to Article 8, conditional use pursuant to Article 18 or zoning variance or direction of the issuance of a permit pursuant to Article 7.
- Q. **Area.** The measurement of a plane surface expressed in acres or square feet.
- R. **Assisted living facility.** A multi-family residence designed to provide a supportive living environment for the semi-independent to frail older adult and which typically offers, in addition to private or semi-private rooms, the following services: meals, personal care, financial management, monitoring of medication or supervision of self-administration of medication, housekeeping, social and recreation activities, transportation and twenty-four hour site supervision. Assisted living housing facilities are licensed and inspected by the N.J. Department of Community Affairs as a Class C Rooming and Boarding Home or are licensed and inspected by the N.J. Department of Health as an Assisted Living Residence.
- S. **At-grade structure.** Any structure which has a height above the ground of less than one (1) foot.
- T. **Attached dwelling units.** Dwelling units which occupy their own separate lot of land but which share a common wall with the adjacent abutting dwelling unit.
- U. **Attic.** The open, non-habitable space between the ceiling beams of the top habitable floor and the roof rafters in any building.
- V. **Automobile body repair shop.** Any building, structure, lot or land in or upon which a business, service or industry licensed by the State of New Jersey involving the repair and/or painting of motor vehicle bodies, and storage in connection therewith, is maintained, conducted, operated or rendered.
- W. **Awning.** A roof-like cover made of fabric, flexible plastic or thin metal over a frame, which projects from and is supported solely by the wall of a building, the purposes for which may include the shielding of a doorway, window or sidewalk from the elements and the display of signs.

**§ 2.05. DEFINITIONS; B.**

- A. **Balcony.** An exterior structure of wood, masonry, metal, stone, asphalt or other substance, without a roof, the floor level of which is elevated above ground level more than four (4) feet and either supported by, attached to or accessible from the principal building or structure.
- B. **Basement.** An interior space, or portion thereof, having a floor level below the average outside elevation of ground at the foundation wall of the building or structure in which it is contained, and having a floor to ceiling height of not less than six and one half (6.5) feet. A basement shall be considered as a story where the finished surface of the floor above the basement is:
- More than 4 feet above the average grade elevation;  
More than four (4) feet above the finished grade for 50% or more of the total building perimeter; or  
More than 10 feet above the finished ground level at any point. **[Amended 09/29/09 by Ord. No. 1941]**
- C. **Bay window.** An alcove of a room projecting from an outside wall and having its own windows, usually but not always having a floor.
- D. **Bedroom.** A room within a dwelling unit which is used for sleeping on a regular basis, usually containing a bed or similar device for sleeping and usually equipped with a door for purposes of privacy.
- E. **Block.** A group of platted lots facing one (1) side of one (1) street between two (2) cross streets.
- F. **Board.** The Planning Board, Zoning Board of Adjustment, or Board of Architectural Review, as applicable.
- G. **Board of education administrative office use.** Any use by the Board of Education of any property owned or leased by it for administrative offices provided such Board of Education use shall not include schools or other Board of Education uses which are treated separately in this ordinance, and further provided that such use shall not include any use of property owned or leased by the Board of Education and thereafter permitted to be used by others under leases or other arrangement for purposes other than accomplishing the Board of Education administrative functions.

- H. **Board of education use, other.** Any use by the Board of Education of any property owned or leased by it provided such Board of Education use shall not include schools or Board of Education administrative office uses which are treated separately in this ordinance, and further provided that such use shall not include any use of property owned or leased by the Board of Education and thereafter permitted to be used by others or leased by others under leases or other arrangements for purposes other than accomplishing the Board of Education functions.
- I. **Bow window.** A bay window which is rounded.
- J. **Building.** Any structure equipped with a roof, supported by columns, pillars or walls, and designed for temporary or permanent occupancy.
- K. **Building Eave Height.** The vertical distance from the grade plane to the lowest point of the roof for gable, hip, gambrel, mansard, and flat roof types. The grade plane representing the average of finished ground level adjoining the building at all exterior walls. **[Amended 09/29/09 by Ord. No. 1941]**
- L. **Bulk and lot regulations.** Regulations involving building height, yard dimensions, lot area, lot width, lot frontage, lot depth, lot coverage by buildings or structures or other improvements, floor area ratio and other regulations of the dimensions of buildings, structures, yards or lots.
- M. **Business or commercial office.** A business or commercial establishment which does not offer a product or merchandise for sale to the public on the premises, but which provides a service to patrons as its primary function. Notwithstanding the above, and notwithstanding the fact that products or merchandise may not be for sale to the public on the premises, establishments offering personal services, such as barber and beauty shops, or repair services, such as radio and television repair shops, and similar businesses shall not be included in this definition of business or commercial office.
- N. **Business services.** Services primarily rendered to other business establishments on a fee or contract basis rather than to the general public. Such services as advertising and mailing, building maintenance, employment services, management and consulting services, protection services, equipment rental and leasing, commercial research development and testing, and photo finishing are examples of business services.

**§ 2.06. DEFINITIONS; C.**

- A. **"C" variance.** Any variance which is not a "D" variance.
- B. **Cellar.** A basement.
- C. **Cellular telecommunications antenna.** An antenna that is intended for commercial transmission or reception of personal wireless telephone services communications, and including commercial mobile services communications, unlicensed wireless services communications, and common carrier wireless exchange access services, and also including any other accessory structures and equipment necessary for such transmission or reception. A "freestanding cellular telecommunications antenna" is such an antenna supported by a tower, mast, pole or similar structure designed primarily for supporting and raising the vertical elevation of such antenna.
- D. **Certificate of occupancy.** A certificate which is issued by the Construction Official signifying completion of a building, structure or other improvement in accordance with applicable laws and ordinances and permitting the occupancy or use of the building, structure or improvement for the stated purposes.
- E. **Change of use.** A change, including but not limited to conversions, from a use permitted in one zone district to a use only permitted in another zone district. See also the definition for a modification of utilization in this article.
- F. **Child care center.** Any facility which is maintained for the care, development or supervision of six (6) or more children who attend the facility for less than twenty-four (24) hours a day, and which is licensed as a childcare center by the Department of Human Services. This term shall not include any of those facilities or uses which are not included within the definition of "child care center" contained in the Child Care Center Licensing Act.
- G. **Classification.** Assignment to a category within a system of categories.
- H. **Commercial.** A use characterized by an interchange or sale of goods or services with emphasis on profit.
- I. **Common ownership.** Common ownership is ownership of two (2) or more contiguous lots of real property by one (1) person or by two (2) or more persons owning such lots in any form of joint ownership.



J. **Community residences and shelters.** Any of the following:

1. Community residence for persons with head injuries. A community residential facility licensed pursuant to P.L. 1977, c.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than fifteen (15) persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels.
2. Community residence for the developmentally disabled. Any community residential facility licensed pursuant to P.L. 1977, c.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than fifteen (15) developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels.
3. Community residence for the terminally ill. Any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services, under such supervision as required, to no more than fifteen (15) terminally ill persons.
4. Community shelter for victims of domestic violence. Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services, providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than fifteen (15) persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

K. **Concept plan.** The optional, initial development plan for subdivisions and/or site plans of sufficient accuracy and detail to be used for the purpose of informal review, evaluation and non-binding comment by the Planning Board and meeting the requirements of this ordinance.

- L. **Conditional use.** A use permitted in a particular zone district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this ordinance, and upon the issuance of an authorization therefore by the Planning Board.
- M. **Condominium.** One (1) or more buildings or structures and the land on which situated containing multiple residential dwelling uses or multiple non-residential uses characterized by a form of ownership of real property under a master deed providing for ownership by one (1) or more owners of units of improvements together with an undivided interest in common elements appurtenant to each unit.
- N. **Construction permit.** A permit which is granted by the Construction Official for the erection, alteration, extension or demolition of a building or structure.
- O. **Contiguous.** Synonymous with abutting.
- P. **Cooperative.** A form of ownership of a building or structure containing multiple residential dwelling uses or multiple non-residential uses characterized by individual ownership of shares of a corporation in an amount related to the space of an occupied unit, with the corporation owning the building and land as a whole.
- Q. **Coverage by buildings and above-grade structures.** The combined area of all buildings and above grade structures on a lot, including but not limited to porches, decks, balconies and cantilevered parts of the building at any level, but excluding, however, cornices, eaves and other structures which are specifically excluded by this ordinance. Said coverage shall be measured at the exterior surface of such buildings and structures and shall be divided by the lot area and expressed as a percentage or, in some cases, as a maximum square foot number.
- R. **Coverage by improvements.** The coverage by buildings and above-grade structures on a lot as defined above, plus the ground coverage of the plan projection of any structures, driveways, sidewalks, parking areas and other paved areas, divided by the lot area and expressed as a percentage or, in some cases, as a maximum square foot number. It is intended to include within this definition all man-made features except vegetation, organic mulch, soil and other structures which are specifically excluded by this ordinance.
- S. **Cul-de-sac.** A street closed on one end and having an enlarged turn around area at the closed end.

**§ 2.07. DEFINITIONS; D AND E.**

- A. **"D" variance.** Permission to depart from the literal requirements of the zoning regulations to permit:
1. a use or principal structure in a district restricted against such use or principal structure;
  2. an expansion of a non-conforming use;
  3. deviation from a specification or standard pertaining solely to a conditional use;
  4. an increase in the permitted floor area ratio as defined in this chapter;
  5. an increase in the permitted density as defined in this chapter, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from minor subdivision; or
  6. a height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure.
- B. **Days.** Calendar days.
- C. **Deck.** A structure of wood, masonry, metal, stone, asphalt or other substance, without a roof, the floor level of which is elevated above average ground level more than one (1) foot but not more than four (4) feet and which is used or designed for use for recreational purposes.
- D. **Density.** The permitted number of dwelling units per gross acre of land to be developed.
- E. **Detached dwelling unit.** A single dwelling unit which occupies its own separate lot of land, as in a single-family house.
- F. **Detached single-family residential building or structure.** A building or structure on a separate lot of land containing one (1) dwelling unit and not attached to any adjoining dwelling unit by a common wall.
- G. **Developer.** The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

- H. **Development.** The division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any excavation or land fill, and any use or change in the use or modification in the utilization of any building or structure, or land or extension of use of land, for which permission may be required pursuant to this ordinance.
- I. **District.** Synonymous with zone district, and being a division of the Town of Westfield permitting only certain categories of uses, requiring certain lot sizes or other development conditions, or any combination of the foregoing.
- J. **Drainage right-of-way.** The lands required for the installation or maintenance of storm water sewers, brook enclosure, brook channel improvements or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with N.J.S.A. 58:1 et seq.
- K. **Driveway.** An improved or delineated area on a lot leading from a street to a garage or entrance to or exit from a building or structure or a parking area intended and designed for use by motor vehicles.
- L. **Duplex.** Same as an attached dwelling unit but limited to two (2) units.
- M. **Dwelling unit.** A dwelling unit is one (1) or more rooms comprising living accommodations designed and used for occupancy by one (1) family living together as a single housekeeping unit and usually containing sanitary, sleeping, and kitchen and dining facilities, fixed or portable.
- N. **Educational Services.** Establishments engaged in offering instruction in art, dance including dance studios, music, automobile driving, gymnastics, martial arts, academic tutoring and examination preparation, but excluding schools, colleges and universities. [Amended 09/29/09 by Ord. No. 1941]
- O. **Exception.** Permission granted by formal action of the Board, or a connective of those organizations to who such power has been delegated, to depart from the design standards, Article 10 of this ordinance.

**§ 2.08. DEFINITIONS; F.**

- A. **Façade.** The exterior vertical surface of a building including ornamentation, windows, doors and overhangs.
- B. **Family.** Any number of persons, whether related by blood, marriage or adoption or not and regardless of whether a consideration is involved, living together in a single dwelling unit as a single housekeeping unit, provided they are in compliance with the minimum space requirement per person as set forth in Article 11. Employees, roomers or boarders meeting the above definition shall be included as part of the family.
- C. **Family day care home.** The private residence of a family day care provider which is registered as a family day care home pursuant to the Family Day Care Provider Registration Act.
- D. **Fee simple.** A form of ownership of real estate where the owner or owners are entitled to the entire property with unconditional power of disposition during life and which passes to heirs upon death pursuant to the intestacy laws or if there is a Will to the devisee by Will.
- E. **Fence.** An artificially constructed freestanding barrier of wood, wire, metal or any other natural or combination of materials erected for the enclosure or screening of areas of land supported by posts or other similar devices placed in the ground.
- F. **Final approval.** The official action of the Board taken on a major subdivision or site plan which has received preliminary approval after all conditions, engineering plans and other requirements have been completed or fulfilled and the required infrastructure approval improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.
- G. **Final plat.** The final map of all or a portion of the subdivision which is submitted for final Board approval in accordance with this ordinance and which, if approved, shall be filed with the proper county recording officer and which complies with the Map Filing Law.
- H. **Final site plan.** The final site plan containing all changes required in the preliminary site plan approval.
- I. **Fire escape.** An emergency egress from a building used for human occupancy, constructed to meet the requirements of the current construction code.

- J. **Flood plain.** An area adjacent to a flood way as defined by the federal emergency management administration.
- K. **Flood water detention or retention basin.** Any storm drainage control technique which retards or detains storm water runoff from land or buildings by the use of a containment device such as a chamber or basin.
- L. **Flood way.** The space contained within the banks of a stream or river as defined by the Federal Emergency Management Administration.
- M. **Floor area, gross (gfa).** The floor area of all floors of a building or structure having floors and measured from the exterior surface of the exterior walls of the building or structure.
- N. **Floor Area, Habitable.** The area of that portion of a building or structure designed, intended, heated, and furnished for year round human occupancy, measured on each floor from the building's exterior walls and including the full horizontal area of each floor of the building, regardless of whether or not an actual floor extends throughout it. Habitable Floor Area shall not include that portion of a finished attic equal to not more than  $\frac{1}{3}$  the area of the floor below. Habitable Floor Area shall not include that portion of an attached unheated garage floor area as follows:
- RS-6, RS-8 and RS-10 Zones: Up to but not exceeding 250 square feet;  
RS-12, RS-16, RS-24, and RS-40 Zones: Up to but not exceeding 450 square feet. [Amended 09/29/09 by Ord. No. 1941]
- O. **Floor area ratio.** The Floor Area Ratio (FAR) is the Habitable Floor Area of all buildings on the site compared to the total area of the site. [Amended 09/29/09 by Ord. No. 1941]
- P. **Front.** [Deleted 11-21-06 by Ord. No. 1878]
- Q. **Front yard.** See "yard, front".
- R. **Frontage.** See "lot frontage". [Amended 11-21-06 by Ord. No. 1878]

**§ 2.09. DEFINITIONS; G TO I.**

- A. **Garage, private.** A detached accessory building, or a portion of a principal building, used primarily for the storage of motor vehicles owned or used by the occupant of the principal building.
- B. **Garage, public.** A public garage is any building, structure, lot or land on or upon which a business, service or industry involving the storage, maintenance or servicing and storage in connection therewith, of motor vehicles or boats is maintained, conducted, or rendered, provided that a "public garage" shall not include any building, structure, lot or land on which motor fuel is offered for sale to the public or on which a business is conducted involving automobile body repair or painting.
- C. **Garden apartment.** A building or group of buildings situated on one (1) lot and containing separate dwelling units for no less than three (3) families and not exceeding two (2) habitable floors.
- D. **Garden center.** A commercial establishment selling plants and garden products, seeds, fertilizer, tools and other related items primarily at retail to the public.
- E. **Gasoline filling station.** Any building, structure, lot or land on or upon which a business, service or industry offers the sale of motor fuel to the public, and does not provide any other services or sell, rent or lease any other products other than customary and incidental maintenance services or products provided while the vehicle is being refueled, including, but not be limited to, the checking and adjusting vehicle fluid levels and tire pressures, the cleaning of windows, etc. and the sale of vehicle fluids.
- F. **Gasoline service station.** Any building, structure, lot or land on or upon which a business, service or industry involving the storage, maintenance, or servicing and storage in connection therewith, of motor vehicles is maintained, conducted, operated or rendered and in association therewith, motor fuel is offered for sale to the public, provided that a "gasoline service station" shall not include any building, structure, lot or land upon which a business is conducted involving automobile body repair or painting.
- G. **Gazebo.** A detached residential accessory structure with a roof but no walls.

- H. **Glare.** The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance or visibility.
- I. **Governing body.** The chief legislative body of the Town of Westfield, the Town Council.
- J. **Grade.** The elevation of the surface of the earth or, where applicable, the average elevation of land around a building or structure as measured at the foundation. Also, the percent of rise of a sloping surface.
- K. **Gross floor area.** See "floor area, gross".
- L. **Habitable floor area.** See "floor area, habitable".
- M. **Half-Story.** That portion of any building or structure located under a pitched roof at the top of a building having a story height of seven (7) feet, zero inches or greater and having a floor area that is less than or equal to one third of the gross floor area of the floor below. For the top most story, story height shall be measured from the top of the finished floor to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. [Amended 09/29/09 by Ord. No. 1941]
- N. **Height of building or structure.** Unless specifically indicated otherwise in the text, the vertical distance from the highest point of the building or structure to the average elevation of normal grade level at the base of the building or structure. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating which deviates from the grade in the general vicinity of the site.
- O. **Home occupation.** Any use or occupation customarily conducted for profit and conducted entirely within a dwelling unit which meets the conditions imposed by Article 14.
- P. **Hot tub.** A plumbing fixture which can be located both inside or outside a dwelling capable of accommodating several persons at the same time and having water circulating or aerating equipment and having a water surface area when full not exceeding fifty (50) square feet.
- Q. **Hotel.** A commercial establishment offering lodging to transients and often having restaurants, public rooms and shops open to the general public. "Hotel" and "motel" are synonymous.



- R. **House of worship.** A building or structure, or group of buildings or structures, which by design and construction are primarily intended for use by groups or persons to conduct organized religious services and the secondary uses associated therewith notwithstanding the fact that such buildings or structures are called by other names by the religious denomination utilizing them. This definition shall include, but not be limited to: chapels, churches, congregations, temples, mosques, shrines and similar designations as well as rectories, parish houses, convents and such secondary uses located on the same lot.
- S. **Housing for the elderly.** One (1) or more dwelling units intended and designed to be occupied by: single individuals fifty (50) years of age or older; married couples, at least one (1) of whom is fifty (50) years of age or older; two (2) or more persons not related by blood, marriage or adoption when all such persons are fifty (50) years of age or older; one (1) person under age fifty(50) but over age twenty (20) residing in a dwelling unit with an elderly person or persons as permitted above, if the presence of said person is essential for the care or economic support of the elderly person or persons. Children twenty (20) years or older may reside with a parent or parents as permitted above. Rental, leasing, resale or occupancy of said units must comply with the age restrictions as herein set forth to qualify as housing for elderly.
- T. **Improvement.** Anything placed on a lot which does not exist naturally, provided that earth, rocks, grass, shrubs, trees and other vegetative material, although placed on the lot by the developer, shall not be construed as an "improvement" as defined herein, and further provided that the above shall not be construed to exempt filling, excavation, grading or landscaping from the requirement to obtain site plan approval if required by this ordinance.
- U. **Industrial use.** A use characterized by manufacturing of products, the use of processes, the assembly of component parts of pre-manufactured products other than structures or other fixed improvements, and the blending of materials, and usually creating a tangible product.

- V. **Ingress and egress platform.** An open above grade structure, with or without a roof and having a platform less than thirty-five (35) square feet in area, attached to a building or structure, located adjacent to an exterior door providing entry to only the ground floor and which may include a stairway to grade and which is designed to provide regular ingress and egress to the building or structure. Such ingress and egress platform shall not be considered a balcony, deck or patio.
- W. **Interested party.** In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey. In the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the Town of Westfield, whose rights to use, acquire, or enjoy property is or may be affected by any action taken under this ordinance or whose rights to use, acquire or enjoy property under this ordinance or under any other law of this State or of the United States have been denied, violated or infringed upon by an action or a failure to act under this ordinance or the Municipal Land Use Law.

**§ 2.10. DEFINITIONS; J TO L.**

- A. **Joint parking program.** A program approved by the Board pursuant to an application whereby parking facilities are shared by occupants of two or more premises.
- B. **Junkyard.** Any space or area, whether inside or outside a building or structure, used or intended to be used for the storage, selling, buying, trading in, keeping, or abandonment of used or discarded or scrap metal, glass, paper, fabric, cordage or other similar material, or for the dismantling, demolition or abandonment of motor vehicles, or other vehicles or machinery, appliances, equipment, fixtures, or parts thereof. This definition shall not apply to facilities operated by the Town or an agency thereof as a convenience to its citizens for the purposes of disposal of organic materials or discarded household items or by non-profit organizations on public property with the permission of the Town Council and under its control for the purpose of recycling.
- C. **Limited childcare home.** A private residence in which child care services are provided for a fee to at least six (6) but less than nine (9) children at any one time for no less than fifteen (15) hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving childcare services:
1. the child being cared for is legally related to the operator; or

2. care is being provided as part of an employment agreement between the operator and an assistant or substitute operator where no payment for the care is being provided.
- D. **Living floor.** A habitable floor.
- E. **Lot.** A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.
- F. **Lot area.** The total square unit contents of any lot as measured within the lot lines.
- G. **Lot, corner.** A lot located at the junction of and having continuous frontage on two (2) or more intersecting streets, and/or a lot having continuous frontage on two (2) or more sides by the same street. A lot consistent with the foregoing definition and which has frontage on streets on opposite ends of the lot is both a corner lot and a through lot. **[Amended 11-21-06 by Ord. No. 1878]**
- H. **Lot coverage.** See Building Coverage and/or Improvement Coverage, as applicable.
- I. **Lot depth.** The shortest straight-line distance between the front lot line and the rear lot line(s), or in the case of through lots, the shortest straight-line distance between the front lot line and the lot line(s) opposite the front lot line. **[Amended 11-21-06 by Ord. No. 1878]**
- J. **Lot frontage.** The length of the lot line or lines that separate a lot from a street right-of-way; provided, however, that for purposes of administering the minimum lot frontage requirements in the zoning regulations, only one lot line shall be used in calculating lot frontage, as follows:  
**[Amended 11-21-06 by Ord. No. 1878]**
1. On interior lots, the length of the front lot line.
  2. On corner lots, the length of the front lot line projected to its intersection with the street side lot line.
  3. On through lots, the length of the front lot line closest to the existing or proposed principal building.
- K. **Lot, interior.** Any lot which is not a corner lot.

- L. **Lot line, front.** On interior lots and through lots, the lot line(s) separating a lot from a street right-of-way. On corner lots, the shortest lot line separating a lot from a street right-of-way; if two or more such lot lines are the same length, the developer shall choose which lot line is the front lot line and which lot line is the street side lot line. In addition, for purposes of this definition, when the lot lines at an intersection are rounded, the length of the front lot line shall be measured to the point of intersection of the extension of the front lot line and street side lot line. **[Amended 11-21-06 by Ord. No. 1878]**
- M. **Lot line, rear.** On interior lots and corner lots, the lot line or lines opposite the front lot line. On through lots, the lot line(s) that do(es) not separate the lot from a street right-of-way and which is/are opposite the front lot line that is closest to the existing or proposed principal building; some through lots do not have a rear lot line. In the case of interior lots which have side lot lines meeting at a point in the rear of the lot, the rear lot line shall be construed to be an imaginary line that: a) intersects the point of intersection of the side lot lines, and b) follows the alignment of the rear lot lines of adjacent properties, the intent being to maintain the existing rear yard pattern of the neighborhood. **[Amended 11-21-06 by Ord. No. 1878]**
- N. **Lot line, side.** Any lot line other than a front lot line, street side lot line or rear lot line. **[Amended 11-21-06 by Ord. No. 1878]**
- N.1 **Lot line, street side.** On corner lots, the lot line separating the lot from a street right-of-way and which lot line is not a front lot line. **[Added 11-21-06 by Ord. No. 1878]**
- O. **Lot, through.** A lot which has frontage upon streets at opposite ends of the lot and/or a lot having noncontiguous frontage on two or more streets. A through lot may also be a corner lot (see "lot, corner"). **[Amended 11-21-06 by Ord. No. 1878]**
- P. **Lot width.** The shortest straight-line distance between the side lot lines of any lot, measured so that the portion of such straight line which is closest to the front lot line is at a distance from the front lot line equal to the minimum required front yard setback. **[Amended 9-27-05 by Ord. No. 1856]**

- Q. **Low income housing.** Means housing affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to fifty percent (50%) or less of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

§ 2.11. **DEFINITIONS; M AND N.**

- A. **Maintenance guarantee.** Any security which may be accepted by the Town for the maintenance of any improvements required by this ordinance, including but not limited to surety bonds, letters of credit under the circumstances specified in § 5.05A.3, and cash.
- B. **Major site plan.** Any site plan not classified as a minor site plan.
- C. **Major subdivision.** Any subdivision not classified as a minor subdivision.
- D. **Manufacturing.** The production or assembly of articles or finished products from previously refined raw material by giving them new forms, qualities or compositions.
- E. **Market-rate dwelling units.** Housing units not restricted to low- and moderate-income households that may sell at any price determined by a willing seller and a willing buyer. **[Added 6-06-06 by Ord. No. 1869]**
- F. **Master plan.** A composite of one or more written or graphic proposals for the development of the Town as set forth in and adopted pursuant to N.J.S.A. 40:55D-28, as amended.
- G. **Maximum Continuous Wall Length at Zoning Side Yard.** The maximum continuous length for walls of a Building or Structure located adjacent to a side yard property line shall be limited to twenty-five (25) feet. For the purpose of administering this provision, any exterior wall that is offset in plane for a depth of two (2) feet or greater shall be construed as a separate wall. In addition, a minimum of five (5) percent of the total square footage of each sidewall is to be made up of windows. **[Amended 09/29/09 by Ord. No. 1941]**
- H. **Median income.** The level of income where one half (1) the persons having income are below that level and one half (1) the persons having income are above that level.

- I. **Minor site plan.** A development plan of one or more lots which:
1. is limited to the following where no new variances are required:
    - a. freestanding signs;
    - b. alteration of the facade of a building or structure;
    - c. increase or decrease in floor area, either gross or habitable, of less than five percent (5%) of existing floor area or five hundred (500) square feet, whichever is smaller;
    - d. addition of a permitted accessory building, structure or use no larger than five hundred (500) square feet in floor area; or
    - e. modification of utilization not involving any of the above.
  2. does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42; and
  3. contains the information reasonably required in order to make an informed determination as to whether the requirements established by this ordinance for approval of a minor site plan have been met.
- J. **Minor subdivision.** A subdivision of land that does not involve:
1. the creation of more than five (5) lots on an existing street;
  2. residential cluster development;
  3. any new street;
  4. extension of any off-tract improvements, the cost of which is to be prorated pursuant to N.J.S. 40:55D-42, as amended.
- K. **Mobile storage structures.** Any assembly of materials which is so designed, constructed or reconstructed to make it portable and capable of movement from one (1) site to another, designed to be used without a permanent foundation, having the purpose of storing tangible property and not for occupancy by persons, and having only one (1) dimension exceeding ten (10) feet. The following shall not be considered to be included within the aforesaid definition:

1. the loading, unloading or parking of any mobile storage structure commonly known as a truck trailer which is properly registered under the laws of any State as a motor vehicle, provided the parking, loading or unloading of said motor vehicle complies with all other provisions of the State Law, the Town Code and this ordinance;
2. the loading or unloading of mobile storage structures on industrial, commercial or residential sites so long as said activity does not exceed a forty-eight (48) hour period of time; and,
3. the use of mobile storage structures for the disposal of waste materials by a contractor licensed for such disposal services.

L. **Modification of utilization.** A change in the degree of utilization of land, buildings or structures which although permitted in the particular zone district, nevertheless constitutes a significant increase or decrease in:

1. the hours of use;
2. the number of occupants, patrons, visitors or other persons using the land, buildings or structures;
3. the need for public utility or transportation services;
4. the extent of traffic generation or parking requirements; or
5. other similar factors, to the extent that in the opinion of the Zoning Officer, site plan review and approval of the Board is required.

By way of example, but not limitation, a use involving any of the following shall be presumed to be a modification of utilization:

6. an enlargement, reduction or relocation of a building, floor area or land area containing a use;
7. a substantial change in the products or materials manufactured, stored, used or sold on the premises;
8. a substantial change in the processes or mechanisms utilized on the premises;
9. a substantial change in the amount and/or nature of traffic, parking, shipping or deliveries associated with the use on the premises;
10. a change in the number of dwelling units; and

11. a substantial change in the hours, days or seasons during which a use is conducted.
- M. **Multi-family use;** multi-family residence. A use involving three (3) or more separate dwelling units in a building as the primary use on one (1) lot; a building devoted to such use. **[Amended 5-11-1999 by Ord. No. 1734]**
- N. **Multi-family zone.** Any of those zones set forth in Article 11 of this ordinance and known as the RA-1, RA-2, RA-3, RA- 4, RA-5A, RA-5B, NS-AMFH, NA-AH and RA-5C zone districts. **[Amended 12-16-2014 by Ord. No. 2030]**
- O. **Municipal agency.** The Town Planning Board, Board of Adjustment, or the Town Council when acting pursuant to this ordinance and any agency created by this ordinance that is acting pursuant to this ordinance.
- P. **Municipal use.** Any use by the Town of Westfield of any property owned or leased by it.
- Q. **Nonconforming building or structure.** A building or structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning regulation of the Town of Westfield but which fails to conform to the requirements of the zoning regulations by reason of such adoption, revision or amendment to the regulations.
- R. **Nonconforming lot.** A lot of record, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning regulation of the Town of Westfield but which fails to conform to the requirements of the zoning regulations by reason of such adoption, revision or amendment to the regulations.
- S. **Nonconforming use.** A use or activity which was lawful prior to the adoption, revision or amendment of a zoning regulation of the Town of Westfield but which fails to conform to the requirements of the zoning regulations by reason of such adoption, revision or amendment to the regulations.
- T. **Non-profit charter membership organization.** Any organization, whether incorporated or otherwise, which is not for profit and which is organized for the benefit of its members or for the public or for charitable purposes, but shall not include hospitals, clinics or out-patient clinics or dispensaries whose principal function is the providing of nursing or convalescent care, the furnishing of narcotic, drug or alcohol abuse treatment, or the performance of any extensive medical treatment or procedure.
- U. **Non-residential use.** A use which is designed or intended for any purpose other than as a dwelling unit.



- V. **Non-residential zone.** Any of those zones set forth in Article 11 of this ordinance and known as the C, CBD, GB-1, GB-2, GB-3, O-1, O-2, O-3, P-1, and P-2 zone districts.
- W. **Normal grade.** The newly established grade after construction, exclusive of any filling, berming, mounding, excavating, curbing, retaining wall or other feature that alters the grade at the perimeter of the structure from the grade in the general vicinity of the structure. In the event that construction includes such filling, berming, mounding, excavating, curbing, retaining wall or other feature which so alters the grade, normal grade shall be construed to be the grade that would exist without such features. **[Added 12-14-04 by Ord. No. 1843]**

**§ 2.12. DEFINITIONS; O.**

- A. **Obligor.** A person who binds himself to another by contract or legal agreement.
- B. **Occupancy.** The residing of a person or persons in a dwelling unit overnight or the installation, storage or use of equipment, merchandise or machinery in any commercial, public or industrial building. Also, the specific purpose for which land, building or structure is used, designed or maintained and when so used is the same as the use.
- C. **Official map.** A map adopted pursuant to N.J.S.A. 40:55D-32 et seq. as amended and meeting the requirements of Article 20 of this ordinance.
- D. **Off-site.** Located outside the lot lines of the lot in question but within the property, of which the lot is a part, which is the subject of a development application or contiguous portion of a street or right-of-way.
- E. **Off-street.** Not located within the street right-of-way.
- F. **Off-tract.** Not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.
- G. **On-site.** Located on the lot in question.
- H. **On-tract.** Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.
- I. **Operable motor vehicle.** A motor vehicle which in its then existing condition can be moved under its own power from place to place on a public highway without violating any provision of N.J.S.A. 39:1 et seq. by doing so.

- J. **Oriel window.** Same as Bay Window.
- K. **Owner.** Any individual, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in the land sought to be processed for development under this ordinance.

**§ 2.13. DEFINITIONS; P.**

- A. **Parapet.** A projection of the outer wall of a building above the roof, usually on the front facade.
- B. **Parking area.** An open area, other than a street or other public road or way, used for the parking of motor vehicles, including access drives or aisles for ingress and egress thereto and therefrom.
- C. **Parking space.** A rectangular space measuring not less than the dimensions set forth in Article 17 and used for off-street motor vehicle parking, exclusive of access drives or aisles as required in Article 17.
- D. **Patio.** A structure of wood, masonry, metal, stone, asphalt, or other substance, without a roof, the floor level of which is one (1) foot or less above average surrounding grade, used for recreational purposes and is an accessory use.
- E. **Performance guarantee.** Any security, which may be accepted by a municipality, including but not limited to surety bonds, letters of credit under the circumstances specified in S 5.05A.3, and cash, in lieu of a requirement that certain improvements be made before the Board or other agency grants final approval of a subdivision plat, site plan or zoning variance.
- F. **Person.** Any person, individual, business entity, partnership, association, corporation, company or organization of any kind or nature.
- G. **Personal services.** Services involving the care of a person or his or her personal goods or apparel.
- H. **Planned development.** See Residential Cluster Development.
- I. **Plant nursery.** Same as a garden center, except with the added feature that plants are grown on the site.
- J. **Plat.** The map or maps of a subdivision.
- K. **Portable On-Demand Storage (PODS) structure.** Any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed

complying with all building codes and land use requirements.  
[Amended 10-12-2010 by Ord. No. 1965]

- L. **Porch.** An above grade open or enclosed structure attached to or accessible from the principal building or structure, having a roof, and having more than thirty-five (35) square feet in area. A porch is considered as part of the principal building or structure.
- M. **Preliminary approval.** The conferral of certain rights pursuant to § 8.10 prior to final approval after specific elements of a development plan have been agreed upon by the Board and the applicant.
- N. **Preliminary plat.** The preliminary map indicating the proposed layout of the subdivision which is submitted to the Town for Board consideration and preliminary approval and meeting the requirements of this ordinance.
- O. **Preliminary site plan.** The preliminary development plan indicating the proposed layout of the site which is submitted to the Town for Board consideration and preliminary approval and meeting the requirements of this ordinance.
- P. **Premises.** The particular lot or lots being considered, including everything thereon.
- Q. **Principal building or structure.** A building or structure devoted to the principal use on a lot.
- R. **Principal use.** The primary or predominant use of a lot.
- S. **Professional office.** The office of a member of a recognized profession maintained for the conduct of that profession. A recognized profession shall be limited to the professions of human medicine, law, dentistry, architecture, city planning, surveying, engineering, accounting and such similar professions which require a comparable degree of formal education and experience.
- T. **Public area.** Public parks, playgrounds, trails, paths and other recreational areas; other public open spaces; publicly owned scenic and historic sites; sites for schools and other public buildings and structures.
- U. **Public park.** A building, structure, lot or land owned or operated by the Town of Westfield or a department thereof or any other governmental agency and which is open to use by the general public, whether free of charge or otherwise, and which is primarily devoted to recreational or open space use.

- V. **Public utility facility, residential type.** Any use meeting the general definition of "public utility" as set forth in the definition section of N.J.S.A. 48:2-13 et seq., which is contained in a building no greater than fifteen (15) feet in height and, if not contained in a building, involving structures no greater than thirty-eight (38) feet in height except as may be specifically permitted otherwise by this ordinance, and otherwise meeting the requirements for lot size, coverage, setbacks, etc. provided for the zone in which it is located, except where more stringent requirements are imposed herein which shall control. Notwithstanding the above, the following uses shall not be construed to be residential type public utility facility uses for purposes of administering this ordinance:
1. bus or autobus, trolley railroad, street railway, traction railway, charter bus, or special bus terminal, parking facility, storage or maintenance facility;
  2. electric substation;
  3. natural gas transmission pumping facility or pressure reduction facility;
  4. any facility relating to the collection, transfer, processing, storage or disposal of solid waste or vehicles engaged in the collection of solid waste except such facilities operated by the Town of Westfield;
  5. a hazardous waste site or any facility relating to the storage, transfer processing or disposal of hazardous waste.
- W. **Public utility facility, industrial type.** Any use meeting the general definition of "public utility" as set forth in the definition section of N.J.S.A. 48:2-13 et seq., and which does not meet the definition of "Residential Type Public Utility Facility" herein.

**§ 2.14. DEFINITIONS; R.**

- A. **Research facilities.** An office or facility for conducting research, engineering and development in the physical or biological sciences with the objective of creating end products and any administrative office associated therewith. Such facilities shall be of a type that do not include any activities that create noise, dust, smoke, odor, glare, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, unusual risks of fire or

explosion or activities otherwise prohibited by law or ordinance and shall not cause electrical, visual, or audible interference in any radio or television receivers or transmitters located off premises or cause fluctuations in line voltage off premises.

- B. **Residence.** A residence is one (1) or more rooms comprising living accommodations designed and used for occupancy by one (1) family living together as a single housekeeping unit and usually containing sanitary, sleeping, and kitchen and dining facilities, fixed or portable. [Amended 09/29/09 by Ord. No. 1941]
- C. **Residence, multifamily.** A building or portion thereof, designed exclusively for occupancy by three or more families living independently of each other in individual residences. [Amended 09/29/09 by Ord. No. 1941]
- D. **Residential cluster development.** A contiguous or noncontiguous area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.
- E. **Residential zone.** Any of those zones set forth in Article 11 of this ordinance and known as the RS-40, RS-24, RS-16, RS-12, RS-10, RS-8, RS-6, RM-12, RM-8, RM-6, RM-6D, RA-1, RA-2, RA-3, RA-4, RA-5A, RA-5B, NS-AMFH, NA-AH and RA-5C zone districts. [Amended 12/16/14 by Ord. No. 2030]
- F. **Restaurant.** A use or premises at which food is served to the general public or to private groups for a consideration and having more than fifteen (15) seats that can be used by patrons.
- G. **Retail sales.** The sale of goods or merchandise to the general public for personal or household consumption and the rendering services incidental to the sale of such goods.
- H. **Retail services.** The rendering of services or entertainment, as opposed to products, to the general public for personal or household use. Retail services include eating and drinking places, hotels and motels, finance, real estate and insurance services, personal services, motion pictures, amusement and recreation services, health, educational, and social services, museums and galleries.
- I. **Roof pitch.** The slope of a roof usually expressed in inches or feet of vertical rise per inch or foot of horizontal distance.
- J. **Row house.** See Town House.

**§ 2.15. DEFINITIONS; SA TO SS. [Amended 8-03-2004 by Ord. No. 1838]**

- A. **School.** Any building or structure used for educational or instructional purposes and including not only the physical building or structure, but also the organization conducting such education or instruction therein, whether public or private, profit making or non-profit.
- B. **Screening.** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, densely planted vegetation or combination thereof.
- C. **Senior citizen.** A person at least sixty-two (62) years of age.
- D. **Senior citizen housing.** Housing consisting of multiple dwelling units which are designated and intended for occupancy by persons sixty-two (62) years of age or over or handicapped/disabled and of low or moderate income.
- E. **Setback.** The shortest straight-line distance between a building or structure and the nearest property line.
- F. **Shed.** An unheated building, whether on a permanent or temporary foundation, designed and intended for storage of items smaller in size than an automobile, and accessory to the permitted use on the premises, but not for storage of an automobile.
- G. **Sidewalk cafe.** A use accessory to a restaurant and characterized by the following:
  - 1. The consumption of food by the public at tables located within that more or less rectangular portion of the sidewalk which lies within the area bounded by the public street, the principal facade, and the imaginary perpendicular lines running from the outer edge of such principal facade to the public street, and/or located upon private property; and
  - 2. Containing readily removable tables, chairs, temporary railings and/or planters; and
  - 3. Unenclosed by fixed walls ceilings, or fences, except for retractable awnings, removable barriers, umbrellas or other nonpermanent enclosures.
- H. **Sign.** Any visible device, structure, object or part thereof, or device attached thereto or painted or represented thereon,

for attracting attention, giving information, or for visual communication, or for purposes of enjoyment only, which displays or includes any letter, word, model, banner, flag, pennant, insignia, mural, picture or art work, device, representation or advertisement. The term "sign" shall also include movable signs such as those typically affixed to trucks or other commercial vehicles for the purpose of advertising or announcing ownership, or the product or service offered by the owner or operator. The term "sign" shall also include lighting devices designed to attract attention. For the purposes of this ordinance, the term "sign" shall not include the flag, pennant, or insignia of any nation, group of nations, state, city or political unit.

- I. **Sign, announcement.** A sign identifying an occupant of the premises and his activity.
- J. **Sign, exterior.** Any sign located outside of a building and any sign located within a building when such sign is both: 1) visible from outside the building and 2) located within twelve (12) feet of the window or door through which the sign is visible.
- K. **Sign, freestanding.** Any non-movable sign which is not affixed to a building, but standing apart therefrom.
- L. **Sign, illuminated.** A sign having a source of light, including signs lighted internally, externally or by a combination of both, as well as reflectorized, glowing and radiating signs.
- M. **Sign, internally illuminated.** Any sign which is illuminated by a light source which transmits light through the sign face from behind the sign face. The term "internally illuminated sign" shall also include, but not be limited to, awnings which are translucent or transparent and which meet the definition of signs and which are illuminated from the rear.
- N. **Sign, official.** Any sign, symbol or device erected and maintained by a federal, state, county or local government agency for the purpose of informing, guiding or protecting the public.
- O. **Sign, temporary.** A sign which may be displayed for a limited period of time, as hereinafter provided.
- P. **Sign, wall.** A sign which is affixed to or painted on an exterior wall of a building.
- Q. **Single family residence.** A building consisting of only one (1) dwelling unit within said building.

- R. **Single ownership.** Ownership of a single lot by one (1) person or by two (2) or more persons owning such lot in any form of ownership. See also the definition of "Common Ownership" in this article.
- S. **Site.** The lot in question.
- T. **Site plan.** A development plan of one (1) or more lots on which is shown:
1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways;
  2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; and
  3. Any other information reasonably necessary and required in order to make an informed determination pursuant to this ordinance.
- U. **Site plan committee.** A committee of at least three (3) Planning Board members appointed by the Chairman of the Board for purposes of reviewing site plans for a report back to the entire Board and such other duties relating to land development which may be conferred on this committee by the Board and the Board's by-laws.
- V. **Sketch plat.** An informal and conceptual map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

**§ 2.16. DEFINITIONS; ST TO SZ.**

- A. **Stairs.** A series of steps to pass from one level to another including platforms or landings.
- B. **Stairwell.** A portion of a building or structure designed and used to contain stairs connecting two or more levels.
- C. **Storage.** The placement of materials in a location for preservation or later use, or for disposal at an off-site location.
- D. **Story.** That portion of a Building or Structure included between the surface of any one (1) floor and the surface of the next floor above it or, if there is no floor above such floor, then "story" shall be that portion of the Building or



Structure included between the surface of any floor and the ceiling next above it. A basement shall be considered as a story where the finished surface of the floor above the basement is:

More than 4 feet above the average grade elevation;  
More than four (4) feet above the finished grade for 50% or more of the total building perimeter; or  
More than 10 feet above the finished ground level at any point. **[Amended 09/29/09 by Ord. No. 1941]**

E. **Street.** Any avenue, boulevard, road, parkway, viaduct, drive or any other way which:

1. is an existing state, county or municipal roadway, or;
2. is shown upon a plat heretofore approved pursuant to law, or;
3. is approved by official action as provided by this ordinance, or;
4. is shown on plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats.

The term "street" includes the land between the street lines, whether improved or unimproved, and which may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

F. **Street sideline.** A street sideline is the outermost line of the whole area devoted to street purposes on either side thereof. Street sideline is synonymous with street right-of-way line.

G. **Structure.** A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

H. **Subdivision.** The division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for sale or development. The term "subdivision" shall also include the term "resubdivision". The following shall not be considered subdivision within the meaning of this ordinance, if no new streets are created:

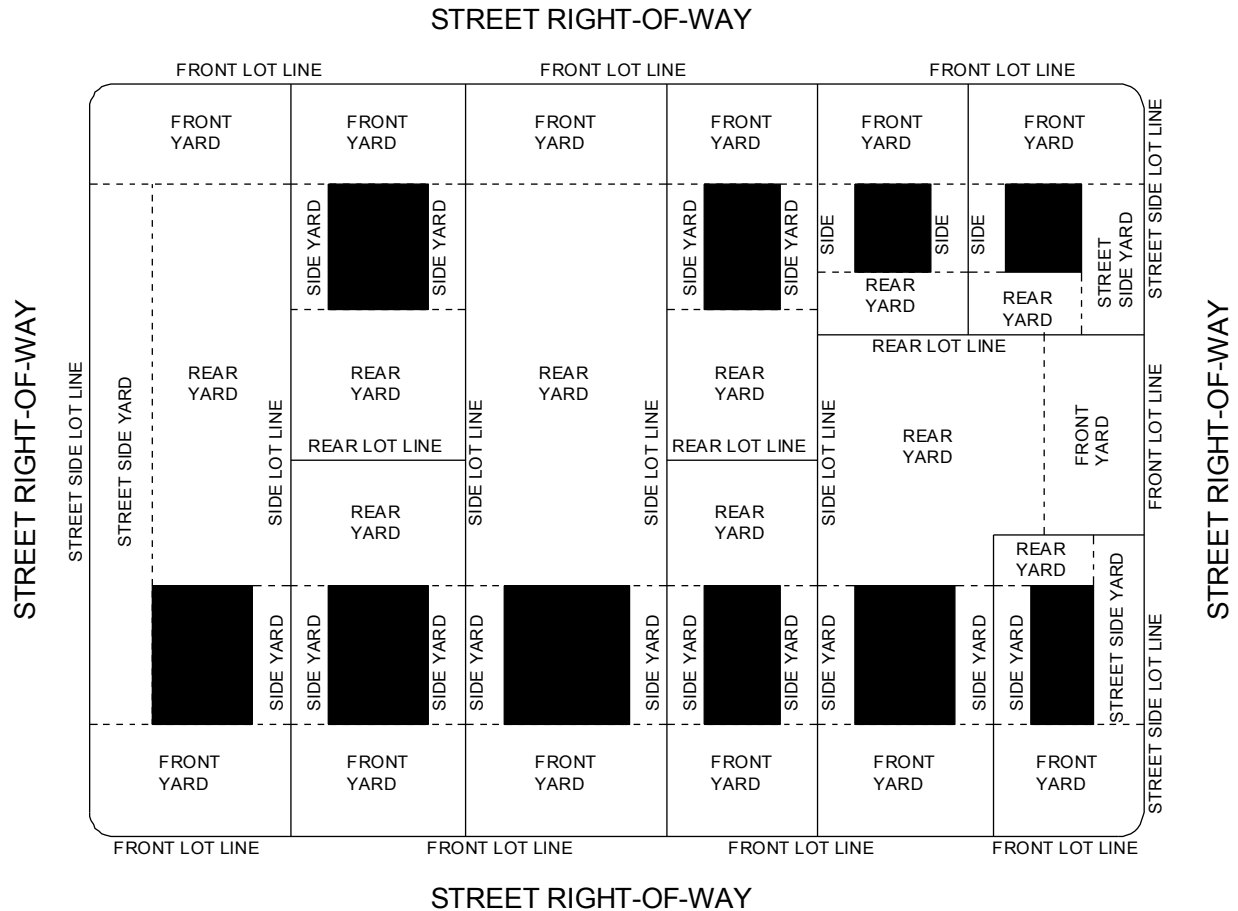
1. divisions of land found by the Planning Board or Subdivision Committee to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size;

2. divisions of property by testamentary or intestate provisions;
  3. divisions of property by court order, including but not limited to judgments of foreclosure;
  4. consolidation of existing lots by deed or other recorded instrument; and
  5. the conveyance of one (1) or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Zoning Officer to conform to the requirements of this ordinance and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the Town.
- I. **Subdivision committee.** A committee of at least three (3) Planning Board members appointed by the Chairman of the Board for the purpose of classifying subdivisions in accordance with the provisions of this ordinance, reviewing subdivisions and such other duties relating to land subdivision which may be conferred on this Committee by the Board and the Board's by-laws.
- J. **Swimming pool.** A structure located either above ground or below ground, and inside or outside of a building, and having a water depth at any point greater than three (3) feet and a water surface area when full of greater than one hundred (100) square feet and designed and intended for recreational use for swimming or diving.

**§ 2.17. DEFINITIONS; T TO Z.**

- A. **Town house.** A building containing more than two (2) dwelling units each on separate lots arranged with common side lot lines and sidewalls of the dwelling units within the building.
- B. **Tract.** A lot or lots which are the subject of a development application, and including contiguous portions of the street right-of-way.
- C. **Transcript.** The typed or printed verbatim record of the proceedings or reproduction thereof.
- D. **Two family residential use.** A use characterized by and limited to two (2) dwelling units in a building on a single lot.
- E. **Variance.** Permission granted by formal action of the Board after a hearing to depart from the literal requirements of the zoning regulations of this ordinance, pursuant to the provisions of the Municipal Land Use Law. There are two (2) types of variances, "C" variances and "D" variances, as defined herein.

- F. **Vending machine.** Any apparatus designed to directly sell goods and which receives coins, tokens, electromagnetic purchasing cards or other commodity in return for such goods, or accepts credit for such goods.
- G. **Wading pool.** An aboveground or in-ground structure containing less than eighteen (18) inches of water and intended to be used for recreational purposes by humans.
- H. **Waiver.** Permission granted informally by the Zoning Officer in some cases, or by formal action of the Board or a committee of the Board to who such power has been delegated, to depart from the requirements of this ordinance with respect to the submission of required documents.
- I. **Wall, freestanding.** An exterior solid upright structure which is self-supported on the ground directly below it on a foundation, and having a length is much greater than its thickness, and intended to enclose, protect, divide, or screen a space.
- J. **Wall, retaining.** An exterior, solid, upright supporting structure having a higher ground on one side than the other and designed and intended to create a vertical or near vertical change in grade.
- K. **Warehouse.** A building used primarily for the storage of goods and materials.
- L. **Wetlands, freshwater.** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- M. **Wholesale sales.** A use primarily involving the sale of merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers buying merchandise for, or selling merchandise to, such individuals or companies.
- N. **Yard.** A space located between a lot line and the nearest principal building or structure on said lot. For purposes of determining compliance with this chapter, the dimensions of all yards required by this ordinance shall be measured perpendicular to the lot line. The following figure illustrates sample yards as defined by this chapter (the yards depicted are actual yards, not required yard setbacks):  
**[Amended 11-21-06 by Ord. No. 1878]**



- O. **Yard, front.** [Amended 11-21-06 by Ord. No. 1878] On interior lots and corner lots, a space extending across the full width of any lot and lying between the front lot line and the adjacent elevation line of the nearest principal building or principal structure located on said lot.

On through lots, there are two or more front yards, depending upon the number of front lot lines, defined as follows:

1. One front yard is a space extending across the full width of the lot and located between the principal building and the front lot line closest to the principal building.
  2. The other front yard(s) is/are a space or spaces extending across the width of the lot and located between the other front lot line(s) and the required setback line from such other front lot line(s).
- P. **Yard, rear.** On interior lots, a space extending across the full width of any lot and lying between the rear lot line and the adjacent elevation line of the nearest principal building or principal structure located on said lot. On corner lots, a

space extending between the side lot line and the street side yard, and between the rear lot line and the principal building or structure. On through lots, a space located between the front yard defined in § 2.170.2 above and the adjacent elevation line of the nearest principal building or principal structure located on said lot. **[Amended 11-21-06 by Ord. No. 1878]**

- Q. **Yard, side.** A space located between the front yard and rear yard on a lot, and between the side lot line(s) and the adjacent elevation line of the nearest principal building or principal structure located on said lot. On a through lot, a space located between the front yard defined in § 2.170.1 above and the rear yard, and between the side lot line and the principal building on the lot. **[Amended 11-21-06 by Ord. No. 1878]**
- R. **Yard, street side.** A space on a corner lot located between the front yard and rear lot line on the lot, and between the street side lot line and the adjacent elevation line of the nearest principal building or principal structure located on said lot. On corner lots that are also through lots, a space located between the front yard defined in § 2.170.1 above and the front yard defined in § 2.170.2 above, and between the street side lot line and the adjacent elevation line of the nearest principal building or principal structure on the lot. **[Amended 11-21-06 by Ord. No. 1878]**
- S. **Zone or zone district.** A geographical area of the Town of Westfield specifically set aside for a particular use or group of uses and requiring specific lot dimensions or land area.
- T. **Zoning approval.** Approval by the Zoning Officer of an application for development, use or utilization of property and certifying compliance of the application with the provisions of this ordinance.
- U. **Zoning Officer.** An officer and employee of the Town designated by the Town Council of the Town of Westfield to administer this Land Use Ordinance.
- V. **Zoning regulations.** The regulations contained in Articles 11 through 19 of this ordinance.